

The Director, DeCA may redelegate these authorities as appropriate, and in writing, except as otherwise specifically indicated above or as otherwise provided by law or regulation.

## **PART 384—UNDER SECRETARY OF DEFENSE FOR ACQUISITION AND TECHNOLOGY**

Sec.

- 384.1 Purpose.
- 384.2 Definition.
- 384.3 Applicability.
- 384.4 Responsibilities.
- 384.5 Functions.
- 384.6 Relationships.
- 384.7 Authorities.

### **APPENDIX A TO PART 384—DELEGATIONS OF AUTHORITY**

AUTHORITY: 10 U.S.C. 113 and 133.

SOURCE: 59 FR 35262, July 11, 1994, unless otherwise noted.

#### **§ 384.1 Purpose.**

Pursuant to 10 U.S.C. 133 and the authority vested in the Secretary of Defense by 10 U.S.C. 113, this part updates the responsibilities, functions, relationships, and authorities of the USD(A&T).

#### **§ 384.2 Definition.**

*Department of Defense Acquisition System.* A single, uniform system whereby all equipment, facilities, and services are planned, designed, developed, acquired, maintained, and disposed of within the Department of Defense. The system encompasses establishing and enforcing policies and practices that govern acquisitions, to include documenting mission needs and establishing performance goals and baselines; determining and prioritizing resource requirements for acquisition programs; planning and executing acquisition programs; directing and controlling the acquisition review process; developing and assessing logistics implications; contracting; monitoring the execution status of approved programs; and reporting to Congress.

#### **§ 384.3 Applicability.**

This part applies to the Office of the Secretary of Defense (OSD), the Military Departments, the Chairman of the Joint Chiefs of Staff, the Unified Com-

batant Commands, the Office of the Inspector General of the Department of Defense, the Defense Agencies, and the DoD Field Activities (hereafter referred to collectively as “the DoD Components”).

#### **§ 384.4 Responsibilities.**

The Under Secretary of Defense for Acquisition and Technology, as the senior acquisition executive of the Department of Defense, is the principal staff assistant and advisor to the Secretary and Deputy Secretary of Defense for all matters relating to the DoD Acquisition System, research and development, advanced technology, test and evaluation, production, logistics, military construction, procurement, economic security, environmental security, and atomic energy.

(a) The Under Secretary of Defense for Acquisition and Technology shall:

(1) Serve as the Defense Acquisition Executive with responsibility for supervising the performance of the DoD Acquisition System and enforcing the policies and practices in DoD Directive 5000.1<sup>1</sup> and OMB Circular A–109.<sup>2</sup>

(2) Chair the Defense Acquisition Board (DAB) pursuant to DoD Directive 5000.49.<sup>3</sup>

(3) Serve as the DoD Procurement Executive, with responsibilities as prescribed in E.O. 12352, 47 FR 12125, 3 CFR, 1982 Comp., p. 137, and 41 U.S.C. 401–424.

(4) Serve as the United States representative at the North Atlantic Treaty Organization (NATO) Conference of National Armaments’ Directors and other multinational forums of armaments’ directors.

(5) Establish and publish policies and procedures governing the operations of the DoD Acquisition System and the administrative oversight of defense contractors.

<sup>1</sup>Copies may be obtained, at cost, from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

<sup>2</sup>Copies may be obtained by written request to EOP Publications, 725 17th Street, N.W., New Executive Office Building, Washington, DC 20503.

<sup>3</sup>See footnote 1 to § 384.4(a)(1).

(6) Prescribe the developmental testing and evaluation program (which excludes those statutory test and evaluation responsibilities assigned to the Director, Operational Test and Evaluation), including establishing and ensuring implementation of policies and program plans, including funding, for ranges and test facilities and also be responsible for the acquisition-related functions of weapons programs, including control of the elements of the OSD performing the acquisition-related function of strategic and theater nuclear forces programs and tactical warfare programs.

(7) Prescribe policies, in coordination with the IG, DoD, and the Comptroller of the Department of Defense (C, DoD), to ensure that audit and oversight of contractor activities are coordinated and carried out in a manner to prevent duplication by different elements of the Department. The exercise of this responsibility shall not affect the authority of the IG, DoD, under the Inspector General Act of 1978 (Pub. L. 95-452, 92 Stat. 1101).

(8) Coordinate research and development programs DoD-wide to eliminate duplication of effort and ensure that available resources are used to maximum advantage.

(9) Establish policies and programs that strengthen DoD Component technology development programs, encourage technical competition and technology-driven prototyping that promise increased military capabilities, and exploit the cost-reduction potential of innovative or commercially developed technologies.

(10) Develop acquisition plans, strategies, guidance, and assessments, including affordability assessments and investment area analyses, in support of the acquisition Milestone review and the Planning, Programming, and Budgeting Systems (PPBS) processes.

(11) Designate major defense acquisition programs as either DAB or Component programs, sign congressional certifications and reports, administer the Selected Acquisition Report and Unit Cost Report systems, and exercise the other specific authorities provided for in the delegations of authority in the appendix A to this part.

(12) Develop, with the coordination of the Under Secretary of Defense for Policy (USD(P)), agreements with friendly and Allied Nations relating to acquisition matters consistent with DoD Directive 5530.3.<sup>4</sup>

(13) Develop assessments of, and establish policies to maintain the capability of the U.S. defense industry to meet DoD needs.

(14) Supervise the management and performance of the Strategic and Critical Materials Program pursuant to E.O. 12626, 53 FR 47491, 3 CFR, 1988 Comp., p. 585.

(15) Establish policies and procedures, with the coordination of the Under Secretary of Defense (Personnel and Readiness), for the effective management of the acquisition workforce within the Department of Defense, including accession, education, training, and career development.

(16) Advise the Secretary and Deputy Secretary of Defense on technical and programmatic issues arising in Defense Resources Board matters.

(17) Establish and manage the cooperative research and development program.

(18) Manage the OSD Study Program.

(19) Establish policies and procedures for the management of the DoD environmental security strategy for clean-up, compliance, conservation, and pollution prevention.

(20) Supervise the Defense Science Board.

(21) Chair the Nuclear Weapons Council.

(b) For each assigned functional area identified in § 384.5, the Under Secretary of Defense for Acquisition and Technology shall:

(1) Direct planning and analyses activities to assess the technical, economic, and military worth of specific acquisition programs and investment areas.

(2) Establish policies, systems, and standards that promote more effective and efficient administration and management of acquisition resources, and monitor the execution of approved programs to ensure available resources are being applied in accordance with established policies and standards.

<sup>4</sup>See footnote 1 to § 384.4(a)(1).

## § 384.5

## 32 CFR Ch. I (7–1–02 Edition)

(3) Review and evaluate DoD Component plans, programs, and budget submissions to ensure adherence to established priorities, policies and procedures, standards, and resource guidance; and, as appropriate, develop recommended alternatives for Secretary and Deputy Secretary of Defense consideration during all phases of the PPBS process.

(4) Promote coordination, cooperation, and mutual understanding of all matters related to assigned activities, both inside and outside the Department of Defense.

(c) Perform such other duties as the Secretary or Deputy Secretary of Defense may prescribe.

### § 384.5 Functions.

The USD(A&T) shall carry out the responsibilities described in § 384.3, for the following functional areas:

(a) Acquisition management, including acquisition special access programs.

(b) Science and technology and the defense technology base.

(c) Design and engineering, and the development of weapon systems.

(d) Logistics acquisition and management, to include supply systems, weapons systems logistics elements, items standardization, transportation, energy, warehousing, distribution, and related activities.

(e) Procurement.

(f) Scientific and technical information.

(g) Production and manufacturing.

(h) Industrial base resources and productivity.

(i) Force modernization and sustainability and the availability of fielded major weapons systems.

(j) Developmental test and evaluation, as defined in DoD Directive 5000.1 and, to the extent permitted by law, review and approval of the Test and Evaluation Master Plan.

(k) Environmental policy, services, and related actions.

(l) Assignment and reassignment of research and engineering and acquisition responsibility for programs, systems, and activities.

(m) Codevelopment, coproduction, coprocurement, logistics support, wartime host-nation support, and research

interchange with friendly and Allied Nations, in coordination with the Under Secretary of Defense for Policy (USD(P)).

(n) Installation management and base closures.

(o) Construction, including construction funded by host nations under the NATO Infrastructure Program and similar programs with other Allied countries.

(p) Strategic and critical materials, to include the acquisition, retention, and disposal of stocks and the conservation and development of sources of materials.

(q) Unique acquisition matters in support of special operations and low-intensity conflict programs, systems, and activities related to acquisition, in coordination with the USD(P).

(r) Defense Acquisition program protection measures and related counterintelligence and system security activities, in coordination with the Assistant Secretary of Defense for Command, Control, Communications, and Intelligence (ASD(C3I)).

(s) Economic adjustment.

(t) Defense atomic energy, chemical warfare, and biological defense plans and programs.

### § 384.6 Relationships.

(a) In the performance of assigned functions and responsibilities, the USD(A&T) shall:

(1) Take precedence in the Department of Defense on acquisition matters after the Secretary and Deputy Secretary of Defense. On all other matters, the USD(A&T) shall take precedence after the Secretary and Deputy Secretary of Defense and the Secretaries of the Military Departments.

(2) Exercise authority, direction, and control over:

(i) The Principal Deputy Under Secretary of Defense for Acquisition and Technology (PDUSD(A&T)).

(ii) The Director of Defense Research and Engineering (DDR&E).

(iii) The Assistant Secretary of Defense for Economic Security (ASD(ES)).

(iv) The Assistant to the Secretary of Defense for Atomic Energy (ATSD(AE)).

(v) The Director, Advanced Research Projects Agency, through the DDR&E.

(vi) The Director, Defense Logistics Agency.

(vii) The Director, Defense Nuclear Agency, through the ATSD(AE).

(viii) The Director, Ballistic Missile Defense Organization.

(ix) The Director, On-Site Inspection Agency, through the ATSD(AE), to be exercised consistent with DoD Directive TS-5134.2.<sup>5</sup>

(x) The Director of Small and Disadvantaged Business Utilization.

(xi) The Director, Office of Economic Adjustment, through the ASD(ES).

(xii) The President, Defense Acquisition University.

(xiii) The Commandant, Defense Systems Management College.

(xiv) Such other organizations as may be established by the USD(A&T) within resources provided by the Secretary of Defense.

(3) Use existing facilities and services of the Department of Defense and other Federal Agencies, whenever practicable, to avoid duplication and to achieve an appropriate balance among modernization, readiness, sustainability, efficiency, and economy.

(b) The Secretaries of the Military Departments and the heads of other DoD Components shall consult the USD(A&T) before assigning an officer or employee to serve as a Program Executive Officer or a Program Manager, or reassigning an officer or employee so serving, for any program subject to review by the DAB.

(c) The Secretaries of the Military Departments and the heads of other DoD Components shall consult the USD(A&T) on program objectives memoranda and budget estimate submissions that reflect a significant change to any program subject to review by the DAB, before their submission to the OSD.

(d) The USD(A&T) shall work directly with the Service Acquisition Executives.

(e) Other OSD officials and heads of the DoD Components shall coordinate with the USD(A&T) on all matters related to authorities, responsibilities, and functions assigned in this part.

#### § 384.7 Authorities.

(a) The USD(A&T) is hereby granted the authority to direct the Secretaries of the Military Departments and heads of all other DoD Components on all matters of acquisition.

(b) The USD(A&T) shall decide upon the appropriate implementing actions to be taken as a result of DAB reviews, to include the establishment of specific exit criteria that must be satisfactorily demonstrated before an effort or program can progress to the next Milestone decision point. The USD(A&T)'s decisions shall be reflected in an Acquisition Decision Memorandum issued by the USD(A&T) for implementation by the heads of the DoD Components.

(c) The C, DoD, shall coordinate with the USD(A&T) prior to approving the transfer or reprogramming of funds into or from a program within the purview of the USD(A&T).

(d) The USD(A&T) may direct the C, DoD, to withhold the release of funds to an acquisition program when the USD(A&T) determines that such direction is necessary to ensure that the program meets the criteria established by DoD Directives for exiting the Milestone and all additional exit criteria for the program established by the Secretary of Defense, the Deputy Secretary of Defense, or the USD(A&T). The USD(A&T) may not delegate the authority granted by this subsection to anyone other than the PDUSD(A&T).

(e) The USD(A&T) shall:

(1) Issue DoD Instructions, DoD Publications, and one-time directive-type memoranda, consistent with DoD 5025.1-M,<sup>6</sup> that implement acquisition policies and procedures for the functions assigned to the USD(A&T). Instructions to the Military Departments shall be issued through the Secretaries of the Military Departments. Instructions to Unified Combatant Commands shall be communicated through the Chairman of the Joint Chiefs to Staff.

(2) Obtain reports, information, advice, and assistance, consistent with DoD Directive 8910.1,<sup>7</sup> as necessary, in carrying out assigned functions.

<sup>5</sup>Classified document. Not releasable.

<sup>6</sup>See footnote 1 to § 384.4(a)(1).

<sup>7</sup>See footnote 1 to § 384.4(a)(1).

(3) Communicate directly with the heads of the DoD Components. Communications to Commanders of the Unified Combatant Commands shall be transmitted through the Chairman of the Joint Chiefs of Staff.

(4) Establish arrangements for DoD participation in nondefense governmental programs for which the USD(A&T) is assigned primary DoD cognizance.

(5) Communicate with other Government Agencies, representatives of the legislative branch, and members of the public, as appropriate, in carrying out assigned functions.

(6) Coordinate with and exchange information with other DoD officials exercising collateral or related responsibilities.

(7) Exercise the delegations of authority in appendix A to this part.

(f) Nothing in this part limits or otherwise affects delegations of authority by the Secretary of Defense to the Deputy Secretary of Defense.

#### APPENDIX A TO PART 384—DELEGATIONS OF AUTHORITY

I. Pursuant to the authority vested in the Secretary of Defense, and subject to his direction, authority, and control, and in accordance with DoD policies, Directives, and Instructions, the USD(A&T) is hereby delegated authority to exercise, within his assigned responsibilities and functional areas, all authority of the Secretary of Defense derived from statute, Executive order, and interagency agreement, except where specifically limited by statute or Executive order to the Secretary of Defense, to include but not limited to:

1. Exercise all authorities delegated to the Secretary of Defense by the Department of Commerce for the Defense Priorities and Allocations System (DPAS Del. No. 1, as amended). In addition, exercise the authorities delegated to the Secretary of Defense by Executive Order 12742, dated January 8, 1991 (3 CFR, 1991 Comp., p. 309).

2. Act for the Secretary of Defense in the exercise of extraordinary contractual action authority under Pub. L. 85-804, as amended by Pub. L. 93-155 (50 U.S.C. 1431-1435), as amended—an Act to authorize the making, amendment, and modification of contracts to facilitate the national defense, August 28, 1958, in accordance with E.O. 10789, November 14, 1958, as amended, 23 FR 8897, 3 CFR, 1954-1958 Comp., p. 426 and 48 CFR part 50.

3. Make Secretarial determinations, justifications, and approvals on behalf of the Advanced Research Projects Agency, Bal-

listic Missile Defense Organization, Defense Contract Management Command, Defense Logistics Agency, the Defense Nuclear Agency, the On-Site Inspection Agency, the Office of Economic Adjustment, the Defense Acquisition University, and the Defense Systems Management College under title 10, United States Code, with the authority to redelegate to the Heads of those organizations, and other organizations as may be assigned to the USD(A&T), as appropriate.

4. Act for the Secretary of Defense in making determinations and authorizing waivers under the Buy American Act (41 U.S.C. 10a-10d).

5. Act for the Secretary of Defense on delegations of authority to him by the U.S. Trade Representative to waive the prohibition against procurement from certain countries, pursuant to title 3, Pub. L. 96-36, Trade Agreements Act of 1979 (19 U.S.C. 2511 et seq.), and E.O. 12260, December 31, 1980, 46 FR 1653, 3 CFR, 1980 Comp., p. 311.

6. Act for, and exercise the powers of, the Secretary of Defense on requests for waiver of the navigation and vessel inspection laws of the United States under Pub. L. 891, 81st Congress, 2nd Session, December 27, 1950 (64 Stat. 1120), except on those matters that have been delegated by the Secretary of Defense to the Secretary of the Army.

7. Make recommendations to the Department of Energy in connection with facilities for transmission of electric energy and natural gas across borders of the United States, pursuant to the authority given the Secretary of Defense in E.O. 10485, September 3, 1953, 18 FR 5397, 3 CFR, 1949-1953 Comp., p. 70, as amended by E.O. 12038, February 3, 1978, 11 FR 1809, 3 CFR 1943-1948 Comp., p. 508.

8. Exercise all responsibilities and authorities of the Secretary of Defense under 10 U.S.C. 2404, on the acquisition of petroleum.

9. Act for the Secretary of Defense in the implementation of OMB Circular A-109,<sup>1</sup> "Major System Acquisitions," April 5, 1976.

10. Make the determination required by 50 U.S.C. 1512(1), on transportation or testing of any lethal chemical or any biological warfare agent.

11. Make written determinations for conduct of all closed meetings of Federal Advisory Committees under his cognizance as prescribed by section 10(d) of the Act (5 U.S.C. appendix II, 10(d)).

12. Act for the Secretary of Defense in the implementation of OMB Circular A-76,<sup>2</sup> "Performance of Commercial Activities," as revised, August 4, 1983.

<sup>1</sup>Copies may be obtained by written request to EOP Publications, 725 17th Street, NW., New Executive Office Building, Washington, DC 20503.

<sup>2</sup>See footnote 1 to section 9 of this appendix.

13. With the exception of the determination of highly sensitive classified programs, which is retained by the Secretary of Defense, exercise the responsibilities and authorities of the Secretary of Defense to designate major defense acquisition programs, as defined in title 10, United States Code, section 2430.

14. Act for the Secretary of Defense in preparing and revising an acquisition strategy for a major defense acquisition program throughout the period from the beginning of Full-Scale Development (Engineering and Manufacturing Development) through the end of production under Sections 2438 and 2439 of title 10, United States Code.

15. Act for the Secretary of Defense in making certifications, providing reports, and approving waivers for major defense acquisition programs required by Title 10, United States Code. This authority includes, but is not limited to, the following:

a. Submit Selected Acquisition Reports (SARs) (Section 2432), to include notifications of SAR waivers and research, development, test, and evaluation-only SARs.

b. Make and submit certifications required for Unit Cost Reports (Section 2433).

16. Exercise all authorities delegated to the Secretary of Defense by E.O. 12580, January 23, 1987, 52 FR 2923, 3 CFR, 1977 Comp., p. 193, on responses to releases of hazardous substances for DoD facilities and vessels under the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601 et seq.) as amended by the Superfund Amendments and Reauthorization Act of 1986 (Pub. L. 99-499, October 17, 1986) (100 Stat. 1613).

17. Exercise all responsibilities and authority of the Secretary of Defense under 10 U.S.C. 2701-2707 and 10 U.S.C. 2810 on conduct of the Defense Environmental Restoration Program.

18. Exercise the authority of the Secretary of Defense under 10 U.S.C. 2354 for the DoD Components other than the Military Departments.

19. Serve on and attend meetings of the Federal Acquisition Regulatory Council, established by section 25 of the Office of Federal Procurement Policy Act, as amended. The PDUSD(A&T) shall serve in the absence of the USD(A&T). This authority may be redelegated consistent with section 25 of the Office of Federal Procurement Policy Act, as amended (Pub. L. 93-400, 88 Stat 796), and section 809 of the National Defense Authorization Act for Fiscal Years 1992 and 1993, Pub. L. 102-190 (105 Stat. 1290).

20. Perform the functions and responsibilities set out at section 25(d) of the Office of Federal Procurement Policy Act, as amended. The authority to review and approve or disapprove regulations relating to procurement under subsection 25(d)(1) may not be

redelegated to any person outside the Office of the USD(A&T).

21. Exercise the authority of the Secretary of Defense under 10 U.S.C. 2350b with respect to NATO Cooperative Projects as defined in section 27 of the Arms Export Control Act (Pub. L. 90-629, 82 Stat. 1320). The authority to grant waivers as authorized in subsection 2350b.(c) may not be redelegated.

22. Exercise all powers and duties of the Secretary of Defense under 10 U.S.C. 2535 to provide a comprehensive and continuous defense industrial reserve program.

23. Act for the Secretary of Defense in the exercise of authority under the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.) in accordance with E.O. 12626, February 25, 1988, 53 FR 6114, 3 CFR, 1988 Comp., p. 552.

24. Act for the Secretary of Defense, under the authority of Federal Property Management Regulations, 41 CFR 101-33.002, or under any other Delegation of Authority that may hereafter be made by the Administrator of General Services, to enter into contracts for public utility services for a period not to exceed 10 years. This authority may be delegated.

25. Act for the Secretary of Defense in establishing and exercising policy direction and oversight over a defense technology office in Japan, in compliance with section 248 of the National Defense Authorization Act for fiscal year 1991 (Pub. L. 101-510) (104 Stat. 1485).

26. Exercise the authority of the Secretary of Defense in 10 U.S.C. 2410i, section 9069 of the DoD Appropriations Act, 1993 (Pub. L. 102-396) (106 Stat. 1876), and section 8072A of DoD Appropriations Act, 1992 (Pub. L. 102-172) (105 Stat. 1150) to waive prohibitions on awarding contracts to foreign entities that have not certified that they do not comply with the secondary boycott of Israel.

II. The USD(A&T) may redelegate these authorities, as appropriate, except as otherwise specifically indicated in this appendix or prohibited by law, Directive, or regulation.

[59 FR 35262, July 11, 1994, as amended at 59 FR 41405, Aug. 12, 1994]

## PART 385—DEFENSE INTELLIGENCE AGENCY

Sec.

385.1 Purpose.

385.2 Mission.

385.3 Responsibilities and functions.

385.4 Organization and administration.

385.5 Relationships.

385.6 Authorities.

385.7 Delegation of authority.

AUTHORITY: 10 U.S.C. chapter 4.